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3732

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Alfred Niederberger  
Eric Hattler  
Serial No.: Not Yet Assigned 10/721,895  
Filed: November 26, 2003  
For: Bone Plate

Confirmation No.: Not Yet Assigned  
Art Unit: Not Yet Assigned  
Examiner: Not Yet Assigned  
Attorney Docket No.: 8932-803-999

## INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RECEIVED  
MAR 23 2004  
O.I.P.E./JCWS

Sir:

In accordance with the duty of disclosure provisions of 37 C.F.R. §1.56, there is hereby provided certain information which the Examiner may consider material to the examination of the subject U.S. patent application. It is requested that the Examiner make this information of record if it is deemed material to the examination of the application.

## 1. Enclosures accompanying this Information Disclosure Statement are:

- 1a. ☒ A list of all patents, publications, applications, or other information submitted for consideration by the office.
- 1b. A legible copy of:
- ☒ Each foreign patent or printed publication;
  - ☒ Each publication or that portion which caused it to be listed on the PTO-1449;
  - ☐ For each cited pending U.S. application, the application specification including the claims, and any drawing of the application, or portion of the application which caused it to be listed on the PTO-1449 including any claims directed to that portion;
  - ☐ all other information or portion which caused it to be listed on the PTO-1449.
- 1c. ☐ An English language copy of search report(s) from a counterpart foreign application or PCT International Search Report.
- 1d. ☐ Explanations of relevancy (ATTACHMENT 1(d), hereto) or English language abstracts of the non-English language publications.
2. ☒ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(b):
- ☒ Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);
  - ☐ Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;

- ☐ Before the mailing of the first Office action on the merits;
- ☐ Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.
3. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(c) after the period specified in 37 C.F.R. §1.97(b), but before the mailing date of any of a final action under 37 C.F.R. §1.113, a notice of allowance under 37 C.F.R. §1.311 or an action that otherwise closes prosecution in the application.

*(Check either Item 3a or 3b)*

- 3a. ☐ The Certification Statement in Item 5 below is applicable. Accordingly, no fee is required.
- 3b. ☐ The \$180.00 fee set forth in 37 C.F.R. §1.17(p) in accordance with 37 C.F.R. §1.97(c) is:  
☐ enclosed  
☐ to be charged to Jones Day Deposit Account No. 16-1150.

*(Item 3b to be checked if any reference known for more than 3 months)*

4. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(d) after the period specified in 37 C.F.R. §1.97(c), but on or before the date of payment of the issue fee.

The Certification Statement in Item 5 below is applicable.

The \$180.00 fee set forth in 37 C.F.R. §1.17(p) is:

- ☐ enclosed.  
☐ to be charged to Jones Day Deposit Account No. 16-1150.
5. ☐ Certification Statement (applicable if Item 3a or Item 4 is checked)

*(Check either Item 5a or 5b)*

- 5a. ☐ In accordance with 37 C.F.R. §1.97(e)(1), it is certified that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- 5b. ☐ Each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.
- 5c. ☐ Pursuant to 37 C.F.R. §1.704(d), each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.
6. ☐ This application is a continuation application under 37 C.F.R. §1.60 or §1.53(b) or (d).

(Check appropriate Items 6a, 6b and/or 6c)

- 6a. ☐ A Petition to Withdraw from issue under 37 C.F.R. §1.313(b)(5) is concurrently filed herewith.
- 6b. ☐ Copies of publications listed on Form PTO-1449 from prior application Serial No. , filed on , of which this application claims priority under 35 U.S.C. §120, are not being submitted pursuant to 37 C.F.R. §1.98(d).
- 6c. ☐ Copies of the publications listed on Form PTO-1449 were not previously cited in prior application Serial No. , filed on , and are provided herewith.
7. ☐ This is a Supplemental Information Disclosure Statement. (Check Item 7a)
- 7a. ☐ This Supplemental Information Disclosure Statement under 37 C.F.R. §1.97(f) supplements the Information Disclosure Statement filed on . A bona fide attempt was made to comply with 37 C.F.R. §1.98, but inadvertent omissions were made. These omissions have been corrected herein. Accordingly, additional time is requested so that this Supplemental Information Disclosure Statement can be considered as if properly filed on .
8. ☒ In accordance with 37 C.F.R. §1.98, a concise explanation of what is presently understood to be the relevance of each non-English language publication is:

( Check Item 8a, 8b, or 8c)

- 8a. ☐ satisfied because all non-English language publications were cited on the enclosed English language copy of the PCT International Search Report or the search report from a counterpart foreign application indicating the degree of relevance found by the foreign office.
- 8b. ☐ set forth in the application.
- 8c. ☒ enclosed as an attachment hereto.
9. ☒ The Commissioner is authorized to charge any additional fee required or credit any overpayment for this Information Disclosure Statement and/or Petition to Jones Day Deposit Account No. 16-1150.
10. ☒ No admission is made that the information cited in this Statement is, or is considered to be, material to patentability nor a representation that a search has been made (other than a search report of a foreign counterpart application or PCT International Search Report if submitted herewith). 37 C.F.R. §§1.97(g) and (h).

Respectfully submitted,

*THOMAS P. Scully*  
FOR *BRIAN M. ROTHERY*

REG. NO. 45,086

Date: February 26, 2004

Brian M. Rothery  
JONES DAY  
222 East 41st Street  
New York, New York 10017  
(212) 326-3939

35,340

(Reg. No.)


**LIST OF REFERENCES CITED BY APPLICANT**

(Use several sheets if necessary)

ATTY DOCKET NO.

8932-803-999

APPLICATION NO

To be assigned

APPLICANT

Alfred Niederberger et al.

FILING DATE

November 26, 2003

GROUP

To be assigned

**U.S. PATENT DOCUMENTS**

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	A01	6,228,085	05/2001	Theken et al.	606	61	
	A02	6,183,475	02/2001	Lester et al.	606	69	
	A03	6,129,730	10/2000	Bono et al.	606	73	
	A04	6,096,040	8/2000	Esser	606	69	
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	A08	5,863,201	1/1999	Lazzara et al.	623	16	
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		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	B01	WO 01/19267	3/2001	PCT				
	B02	WO 00/53110	9/2000	PCT			ABS	
	B03	WO 00/53111	9/2000	PCT			ABS	
	B04	WO 97/09000	3/1997	PCT			ABS	
	B05	DE 44 38 264 A1	3/1996	Germany	A61B	17/70	ABS	
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	B08	EP 0 207 884 A2	1/1987	Europe	A61B	17/58	ABS	
	B09	SU 1279626 A1	12/1986	Russia			ABS	
	B10	2496429	5/1979	France			ABS	
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	B19							

**OTHER REFERENCES** *(Including Author, Title, Date, Pertinent Pages, Etc.)*

	C01	
	C02	
	C03	

**EXAMINER****DATE CONSIDERED**

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with **MPEP 609**; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.